

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

WP(C).No. 11966 of 2007(Y)

CMP.917/2007 of J.M.F.C.-IV,KOZHIKODE
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PETITIONER:

K.E.JOSE, AGED 53 YEARS,
S/O.ETTIIVIRA MATHAI KALAPPURUAKKAL (LATE),
KALAPPURUAKKAL HOUSE, CIVIL STATION HPO,
NEDUNGOTTUR AMSOM AND DESOM,
KOZHIKODE THALUK

BY ADV. SRI.MANJERI SUNDERRAJ
SRI.B.PREMNATH (E)

RESPONDENTS:

1. STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.
2. THYRESSYAMMA JOSE, AGED 62 YEARS,
W/O.K.E.JOSE, C/O.JUAMES GEORGE,
RESIDING IN KULANGARA HOUSE, MALAPARAMBA,
CHEVAYUR AMSOM AND DESOM, KOZHIKODE THALUK.

R1 BY GOVT. PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R. BASANT, J.

W.P.C.No. 11966 of 2007 Y

Dated this the 9th day of April, 2007

JUDGMENT

The petitioner has come before this Court with this writ petition and the specific reliefs claimed are enumerated below:

“(a) issuing a writ of mandamus directing the JFCM Court IV, Kozhikode in CMP 917 of 2007 filed by the 2nd respondent under Sec.23 of the Act 43 of 2005 to proceed strictly according to law bearing in mind the true spirit of the Act 43 of 2005; and

(b) issuing a writ of directions to the court below, JFCM Court IV Kozhikode in CMP 917/07 to duly, patiently and impartially hearing all parties in the matter and considering the pleadings of the petitioner/accused especially preliminarily considering the factum of mental illness of the complainant raised by her son wanting to be appointed her next friend in the case; and

© issuing any other writ, orders or appropriate directions as this Honourable Court deems fit in all the circumstances of the case.”

The petitioner is the respondent in a application filed before the learned Magistrate under Section 12 of the Protection of Women from Domestic Violence Act (DVA). The learned Magistrate, needless to say, is bound to dispose of the said application under

Section 12 imbibing the spirit of expedition, which is demanded of him as per the stipulations of Section 12(5). No specific or special directions appear to be necessary. The learned Magistrate has to dispose of the application under Section 12 in accordance with law in due compliance with the mandate of Section 12(5). I have no reason to assume that the learned Magistrate would not do the same. There is no necessity for the learned Magistrate to consider any question as a preliminary issue considering the mandate of Section 12(5) and it is for the learned Magistrate to dispose of the application in accordance with law and expeditiously.

This writ petition is accordingly dismissed with the above observations.

(R. BASANT)
Judge

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